

By: Smith

H.B. No. 4068

Substitute the following for H.B. No. 4068:

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C.S.H.B. No. 4068

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the regulation of barber schools and beauty culture
3 schools; amending provisions subject to a criminal penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 1601.001(a), Occupations Code, is
6 amended by amending Subdivisions (1-a), (4-b), and (6) and adding
7 Subdivisions (1-b), (4-c), (4-d), (6-a), (6-b), and (7-a) to read
8 as follows:

9 (1-a) "Barber establishment" means a barbershop,
10 mini-barbershop, specialty shop, dual shop, mini-dual shop, mobile
11 shop, or barber school that is subject to regulation under this
12 chapter.

13 (1-b) "Barber school" means a place that holds a
14 permit issued under Subchapter H to teach the practice of barbering
15 and may be privately or publicly funded. The term includes a barber
16 college.

17 (4-b) "Course" means an identifiable unit of
18 instruction that is part of a course of training.

19 (4-c) "Course of training" means the curriculum
20 offered by a barber school to satisfy licensure requirements.

21 (4-d) "Department" means the Texas Department of
22 Licensing and Regulation.

23 (6) "Enrollment agreement" means the written terms
24 under which a student agrees to attend a course of training.

1 (6-a) "Executive director" means the executive
2 director of the department.

3 (6-b) "Manager" means the person who controls or
4 directs the business of a barbershop or directs the work of a person
5 employed in a barbershop.

6 (7-a) "Owner" means, with respect to a barber
7 establishment:

8 (A) the individual owner of the barber
9 establishment;

10 (B) any partner of a partnership that owns the
11 barber establishment;

12 (C) the corporation that owns the barber
13 establishment and its directors, its officers, and each shareholder
14 owning shares of issued and outstanding stock aggregating at least
15 10 percent of the total of the issued and outstanding shares;

16 (D) the beneficiary of a trust that holds an
17 ownership interest in the barber establishment; or

18 (E) each person who owns not less than 10 percent
19 of a legal entity that owns the barber establishment.

20 SECTION 2. Section 1601.3571(b), Occupations Code, is
21 amended to read as follows:

22 (b) The comptroller shall invest the account in the same
23 manner as other state funds. Sufficient money from the account
24 shall be appropriated to the department for the purpose of
25 refunding unearned [~~unused~~] tuition if a barber school ceases
26 operation before its course of instruction is complete. The
27 department shall administer claims made against the account. In

1 this subsection, "unearned tuition" has the meaning assigned by
2 Section 1601.550.

3 SECTION 3. Subchapter L, Chapter 1601, Occupations Code, is
4 amended by adding Section 1601.550 to read as follows:

5 Sec. 1601.550. DEFINITIONS. In this subchapter:

6 (1) "Earned tuition" means the portion of tuition and
7 fees owed by a student to a barber school for instruction the
8 student has received.

9 (2) "Fees" means charges assessed by a barber school
10 that are in addition to tuition. The term includes charges for
11 instructional supplies, books, and kits, student activity fees,
12 laboratory fees, services charges, and deposits.

13 (3) "Tuition" means the agreed amount to be charged
14 for a complete course of training.

15 (4) "Unearned tuition" means the portion of tuition
16 and fees charged by a barber school to a student for which the
17 student has not yet received instruction.

18 SECTION 4. Section 1601.556, Occupations Code, is amended
19 to read as follows:

20 Sec. 1601.556. INFORMATION PROVIDED TO PROSPECTIVE
21 STUDENT. The holder of a barber school permit shall furnish each
22 prospective student with:

23 (1) a course outline;

24 (2) a schedule of the tuition and each fee [~~other fees~~]
25 assessed;

26 (3) the school's policies [~~refund policy~~] required
27 under Sections 1601.562 and [~~Section~~] 1601.563 and the information

1 provided by Section 1601.564;

2 (4) the school's grading policy and rules relating to
3 incomplete grades;

4 (5) the school's rules of operation and conduct,
5 including rules relating to absences;

6 (6) the department's name, mailing address, and
7 telephone number for the purpose of directing complaints to the
8 department; and

9 (7) the current rates of job placement and employment
10 of students who complete a course of training.

11 SECTION 5. Section 1601.563, Occupations Code, is amended
12 by amending Subsections (a) and (c) and adding Subsections (b-1),
13 (d), (e), and (f) to read as follows:

14 (a) A barber school permit holder shall maintain a refund
15 policy to provide for the refund of the unearned [~~unused part of~~
16 tuition charged to [~~, fees, and other charges paid by~~] a student
17 who, after the expiration of the cancellation period established
18 under Section 1601.562:

19 (1) fails to begin the course of training;

20 (2) withdraws from the course of training; or

21 (3) is terminated from the course of training before
22 completion of the course of training.

23 (b-1) The minimum refund of unearned tuition to a student is
24 calculated by dividing the number of hours remaining in the course
25 for which the student has been charged after the effective date of
26 the termination by the total number of hours in the course for which
27 the student has been charged, and then multiplying the resulting

1 number by the amount of the tuition.

2 (c) A barber school permit holder shall publish in the
3 catalogue and enrollment agreement of the school a description of
4 the refund policies [~~policy~~].

5 (d) The owner of a barber school shall calculate the refund
6 on a form approved by the department or in a manner acceptable to
7 the department.

8 (e) Refunds for fees charged to the student shall be made in
9 a reasonable manner.

10 (f) The owner of a barber school may seek recovery from a
11 student of the unpaid portion of earned tuition owed by the student.

12 SECTION 6. Sections 1601.564(a) and (c), Occupations Code,
13 are amended to read as follows:

14 (a) If a student who begins a course of training [~~scheduled~~
15 ~~to last not more than 12 months~~] withdraws from the course or is
16 terminated from the course by the barber school, the school:

17 (1) may retain 100 percent of the earned [~~\$100 in~~]
18 tuition [~~and fees paid by the student~~]; and

19 (2) is not obligated to refund any unearned
20 [~~additional outstanding~~] tuition if the student withdraws or is
21 terminated during the last 25 [~~50~~] percent of the course.

22 (c) If a student withdraws or is terminated after 50 percent
23 of the course has been completed, the school shall allow the student
24 to reenter the school at any time before the second [~~fourth~~]
25 anniversary of the date of withdrawal or termination.

26 SECTION 7. Section 1601.565(b), Occupations Code, is
27 amended to read as follows:

1 (b) A student who receives a grade of incomplete may
2 reenroll in the course of training before the second [~~fourth~~]
3 anniversary of the date the student withdraws and may complete the
4 subjects without incurring [~~paying~~] additional tuition charges.

5 SECTION 8. Sections 1601.566(a), (b), and (d), Occupations
6 Code, are amended to read as follows:

7 (a) A barber school shall pay a refund owed under this
8 subchapter not later than the 30th day after the later of:

9 (1) the effective date of the termination; or

10 (2) the date the student otherwise becomes eligible
11 for the refund.

12 (b) A school that fails to pay the refund within the period
13 required by this section shall pay penalty interest on the amount of
14 the refund for the period beginning on the first [~~31st~~] day after
15 the date the school was required to pay the refund under Subsection
16 (a) [~~student becomes eligible for the refund~~] and ending on the day
17 preceding the date the refund is made. The Texas Workforce
18 Commission [~~commissioner of education~~] shall annually set the
19 penalty interest rate at a rate sufficient to deter a school from
20 retaining money paid by a student.

21 (d) The executive director [~~department~~] may waive [~~exempt a~~
22 ~~school from~~] the payment of penalty interest if the school makes a
23 good faith effort to refund the tuition but is unable to locate the
24 student. The school shall provide to the department on request
25 documentation of the school's effort to locate the student.

26 SECTION 9. Subchapter L, Chapter 1601, Occupations Code, is
27 amended by adding Section 1601.567 to read as follows:

1 Sec. 1601.567. EFFECT OF SCHOOL CLOSURE. (a) A school that
2 ceases to operate shall refund unearned tuition.

3 (b) A refund under this section may be paid from the barber
4 school tuition protection account. The amount paid from the
5 account may not exceed \$1,000 per student.

6 SECTION 10. Section 1602.001, Occupations Code, is amended
7 by amending Subdivision (1) and adding Subdivisions (1-a), (2-a),
8 (2-b), (2-c), (3-b), and (4-a) to read as follows:

9 (1) "Beauty culture school" means a cosmetology
10 school, public or private, that is subject to regulation under this
11 chapter.

12 (1-a) "Board" means the Advisory Board on Cosmetology.

13 (2-a) "Cosmetology establishment" means a beauty
14 salon, beauty shop, specialty salon, specialty shop, mini-salon,
15 dual shop, mini dual-shop, mobile shop, or beauty culture school,
16 public or private, that is subject to regulation under this
17 chapter.

18 (2-b) "Course" means an identifiable unit of
19 instruction that is part of a course of training.

20 (2-c) "Course of training" means the curriculum
21 offered by a beauty culture school to satisfy licensure
22 requirements.

23 (3-b) "Enrollment agreement" means the written terms
24 under which a student agrees to attend a course of training.

25 (4-a) "Owner" means, with respect to a cosmetology
26 establishment:

27 (A) the individual owner of the cosmetology

1 establishment;

2 (B) any partner of a partnership that owns the
3 cosmetology establishment;

4 (C) the corporation that owns the cosmetology
5 establishment and its directors, its officers, and each shareholder
6 owning shares of issued and outstanding stock aggregating at least
7 10 percent of the total of the issued and outstanding shares;

8 (D) the beneficiary of a trust that holds an
9 ownership interest in the cosmetology establishment; or

10 (E) each person who owns not less than 10 percent
11 of a legal entity that owns the cosmetology establishment.

12 SECTION 11. Subchapter J, Chapter 1602, Occupations Code,
13 is amended by adding Section 1602.450 to read as follows:

14 Sec. 1602.450. DEFINITIONS. In this subchapter:

15 (1) "Earned tuition" means the portion of tuition and
16 fees owed by a student to a beauty culture school for instruction
17 the student has received.

18 (2) "Fees" means charges assessed by a beauty culture
19 school that are in addition to tuition. The term includes charges
20 for instructional supplies, books, and kits, student activity fees,
21 laboratory fees, services charges, and deposits.

22 (3) "Tuition" means the agreed amount to be charged
23 for a complete course of training.

24 (4) "Unearned tuition" means the portion of tuition
25 and fees charged by a beauty culture school to a student for which
26 the student has not yet received instruction.

27 SECTION 12. Section 1602.452, Occupations Code, is amended

1 to read as follows:

2 Sec. 1602.452. INFORMATION PROVIDED TO PROSPECTIVE
3 STUDENT. The holder of a private beauty culture school license
4 shall furnish each prospective student with:

- 5 (1) a course outline;
- 6 (2) a schedule of the tuition and each fee [~~other fees~~]
7 assessed;
- 8 (3) the policies [~~refund policy~~] required under
9 Sections 1602.457 and [~~Section~~] 1602.458 and the information
10 provided by Section 1602.459;
- 11 (4) the school grading policy and rules relating to
12 incomplete grades;
- 13 (5) the school rules of operation and conduct,
14 including rules relating to absences;
- 15 (6) the name, mailing address, and telephone number of
16 the department for the purpose of directing complaints to the
17 department; and
- 18 (7) the current rates of job placement and employment
19 of students who complete a course of training.

20 SECTION 13. Section 1602.455(d), Occupations Code, is
21 amended to read as follows:

22 (d) The department may [~~On evaluation and approval, the~~
23 ~~executive director shall~~] certify [~~in writing~~] to the student and
24 to the school to which the student seeks a transfer that:

- 25 (1) the stated courses and hours have been
26 successfully completed; and
- 27 (2) the student is not required to repeat the hours of

1 instruction.

2 SECTION 14. Section 1602.458, Occupations Code, is amended
3 to read as follows:

4 Sec. 1602.458. REFUND POLICY. (a) The holder of a private
5 beauty culture school license shall maintain a refund policy to
6 provide for the refund of any unearned [~~unused part of~~] tuition
7 charged to [~~, fees, and other charges paid by~~] a student who, at the
8 expiration of the cancellation period established under Section
9 1602.457:

- 10 (1) fails to enter the course of training;
11 (2) withdraws from the course of training; or
12 (3) is terminated from the course of training before
13 completion of the course of training.

14 (b) The refund policy must provide that:

15 (1) the refund is based on the period of the student's
16 enrollment, computed on the basis of course time expressed in
17 scheduled hours, as specified by an enrollment agreement, contract,
18 or other document acceptable to the department;

19 (2) the effective date of the termination for refund
20 purposes is the earliest of:

21 (A) the last date of attendance, if the student
22 is terminated by the school;

23 (B) the date the license holder receives the
24 student's written notice of withdrawal; or

25 (C) 10 school days after the last date of
26 attendance; and

27 (3) the school may retain not more than \$100 if:

1 (A) tuition is collected before the course of
2 training begins; and

3 (B) the student does not begin [~~fails to withdraw~~
4 ~~from~~] the course of training before the cancellation period
5 expires.

6 (c) The minimum refund of unearned tuition to a student is
7 calculated by dividing the number of hours remaining in the course
8 for which the student has been charged after the effective date of
9 the termination by the total number of hours in the course for which
10 the student has been charged, and then multiplying the resulting
11 number by the amount of the tuition.

12 (d) The owner of a beauty culture school shall calculate the
13 refund on a form approved by the department or in a manner
14 acceptable to the department.

15 (e) Refunds for fees charged to the student shall be made in
16 a reasonable manner.

17 (f) The owner of a beauty culture school may seek recovery
18 from a student of the unpaid portion of earned tuition owed by the
19 student.

20 SECTION 15. Section 1602.459(a), Occupations Code, is
21 amended to read as follows:

22 (a) If a student begins a course of training at a private
23 beauty culture school [~~that is scheduled to run not more than 12~~
24 ~~months~~] and, during the last 25 [~~50~~] percent of the course,
25 withdraws from the course or is terminated by the school, the
26 school:

27 (1) may retain 100 percent of the earned tuition and

1 fees paid by the student; and

2 (2) is not obligated to refund unearned [~~any~~
3 ~~additional outstanding~~] tuition.

4 SECTION 16. Section 1602.460, Occupations Code, is amended
5 by amending Subsections (a), (c), and (d) and adding Subsection
6 (a-1) to read as follows:

7 (a) A beauty culture school shall pay a refund owed under
8 this subchapter not later than the 30th day after the later of:

9 (1) the effective date of the termination; or

10 (2) the date the student otherwise becomes eligible
11 for the refund.

12 (a-1) If tuition is not refunded within the period required
13 by this section [~~Section 1602.459~~], the school shall pay penalty
14 interest on the amount of the refund for the period beginning the
15 first day after the date the school was required to pay the refund
16 under Subsection (a) [~~period expires~~] and ending the day preceding
17 the date the refund is made.

18 (c) The Texas Workforce Commission [~~commissioner of~~
19 ~~education~~] shall annually set the penalty interest rate at a rate
20 sufficient to deter a school from retaining money paid by a student.

21 (d) The executive director [~~department~~] may waive [~~exempt a~~
22 ~~school from~~] the payment of penalty interest if the school makes a
23 good faith effort to refund the tuition but is unable to locate the
24 student. The school shall provide to the department on request
25 documentation of the effort to locate the student.

26 SECTION 17. Section 1602.461, Occupations Code, is amended
27 to read as follows:

1 Sec. 1602.461. REENTRY OF STUDENT AFTER WITHDRAWAL OR
2 TERMINATION. If a student voluntarily withdraws or is terminated
3 after completing 50 percent of the course at a private beauty
4 culture school, the school shall allow the student to reenter at any
5 time during the 24-month [~~48-month~~] period following the date of
6 withdrawal or termination.

7 SECTION 18. Section 1602.462(b), Occupations Code, is
8 amended to read as follows:

9 (b) A student who receives a grade of incomplete may
10 reenroll in the program during the 24-month [~~48-month~~] period
11 following the date the student withdraws and complete the subjects
12 without incurring [~~payment of~~] additional tuition charges.

13 SECTION 19. Sections 1602.463(a), (b), and (c), Occupations
14 Code, are amended to read as follows:

15 (a) If a private beauty culture school ceases to operate
16 [~~closes~~], the department shall attempt to arrange for students
17 enrolled in the closed school to attend another [~~private beauty~~
18 ~~culture~~] school.

19 (b) If a student from a closed school is placed in another [~~a~~
20 ~~private beauty culture~~] school, the expense incurred by the
21 receiving school in providing training directly related to
22 educating the student, including the applicable tuition for the
23 period for which the student paid tuition, shall be paid from the
24 private beauty culture school tuition protection account.

25 (c) A school that ceases to operate shall refund unearned
26 tuition. [~~If a student from a closed school cannot be placed in~~
27 ~~another school, the student's tuition and fees shall be refunded as~~

1 ~~provided by Section 1602.458. If a student from a closed school~~
2 ~~does not accept a place that is available and reasonable in another~~
3 ~~school, the student's tuition and fees shall be refunded under the~~
4 ~~refund policy maintained by the closed school under Section~~
5 ~~1602.459.]~~ A refund under this subsection may [~~shall~~] be paid from
6 the private beauty culture school tuition protection account. The
7 amount of the refund may not exceed \$35,000.

8 SECTION 20. The following provisions of the Occupations
9 Code are repealed:

- 10 (1) Section 1601.001(b);
- 11 (2) Section 1601.564(b);
- 12 (3) Section 1602.455(e); and
- 13 (4) Sections 1602.459(b) and (c).

14 SECTION 21. Not later than December 1, 2015, the Texas
15 Commission of Licensing and Regulation shall adopt rules
16 implementing Chapters 1601 and 1602, Occupations Code, as amended
17 by this Act.

18 SECTION 22. The changes in law made by this Act apply only
19 to a student enrolling in a barber school or beauty culture school
20 on or after February 1, 2016. A student enrolling in a barber
21 school or beauty culture school before that date is governed by the
22 law in effect immediately before the effective date of this Act, and
23 the former law is continued in effect for that purpose.

24 SECTION 23. This Act takes effect September 1, 2015.